

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA**

**ELOISE NOLLEY**

**CIVIL ACTION NO: 5:23-cv-01172**

**VERSUS**

**SECTION: \_\_\_\_\_**

**BROOKSHIRE GROCERY COMPANY**

**MAGISTRATE JUDGE: \_\_\_\_\_**

**NOTICE OF REMOVAL**

Defendant, Brookshire Grocery Company, gives this notice and removal of civil action, No. 80425 in the 26<sup>th</sup> Judicial District Court for the Parish of Webster, State of Louisiana, to this Court pursuant to 28 U.S.C. §§ 1441 and 1446. In support of this Notice of Removal, defendant represents as follows:

***The Parties***

1.

The plaintiff in this action is Eloise Nolley, who is domiciled in the State of Louisiana. (See Exhibit A, *in globo*, a copy of the suit record of the State Court Preceding to be supplemented upon receipt of the entire record from the State Court). Plaintiff named as defendant Brookshire Grocery Company, a Texas corporation with its principal place of business in the State of Texas. Thus, Brookshire Grocery Company is a citizen of the State of Texas for purposes of diversity jurisdiction.

***State Court Process***

2.

On December 22, 2022, plaintiff filed a lawsuit against the defendant for personal injury. She filed her Petition in the 26<sup>th</sup> Judicial District Court for the Parish of Webster, Division “F,”

Suit No. 80425. The suit record of that proceeding is attached hereto and labeled as Exhibit A, *in globo*.

***Basis for Removal***

3.

Removal to the United States District Court for the Western District of Louisiana is proper because the instant claim arises out of a dispute with an amount in controversy exceeding \$75,000.00, and plaintiff and defendant have diverse citizenship. 28 U.S.C. § 1441(b).

The defendant's assertion that the amount in controversy exceeds \$75,000.00 is based upon the nature and severity of the injuries plaintiff allegedly sustained as a result of the incident she identified in her Petition for Damages, along with the limited information Defendant has been able to gather through discovery.

In her Petition, plaintiff alleged she "has sustained severe and disabling injuries to her body, including, but not limited to, her head, wrist and knees that are permanent in nature." Further, she is alleging damages including "past physical pain, suffering and discomfort, past mental anguish, aggravation and annoyance, future physical pain, suffering and discomfort, future mental anguish, aggravation and annoyance, past medical expenses, future medical expenses, past lost wages, future lost wages, including loss of earning capacity and loss of enjoyment of life, along with any other damages proven at trial."

Since the filing of the Petition, Defendant has made diligent efforts to ascertain information and documentation regarding Plaintiff's medical condition and alleged injuries. Defendant propounded Interrogatories and Requests for Production of Documents upon Plaintiff on or about January 25, 2023, attached hereto as Exhibit B. When Plaintiff did not respond, a Rule 10.1 discovery conference was held. Exhibit C. On after the conference took place, Plaintiff responded

with extremely limited information, providing no medical records or documentation pertaining to her alleged injuries. Further, Plaintiff did not provide Defendant with a signed medical or employment authorization. A copy of her responses is attached hereto as Exhibit D. Thereafter, Defendant scheduled a second Rule 10.1 conference to discuss the supplementation of Plaintiff's responses. When Plaintiff again did not respond filed a Motion to Compel plaintiff to provide full responses to the discovery requests. See Exhibit F. Plaintiff agreed to a Consent Judgment but has still not provided responses to date, despite their being due on or before December 15, 2023. Exhibit G.

Upon information and belief, Plaintiff, who is elderly, is alleging the incident sued upon resulted in a dramatic decline in her health. Defendants contest the causation and duration of Plaintiff's alleged injuries, but in the event there is a valid claim for future elder care, said claim would result in an amount in controversy exceeding Seventy-five Thousand Dollars (\$75,000.00).

### ***Jurisdiction and Removal Procedure***

6.

This Court has original jurisdiction over this action under 28 U.S.C. §1332, and removal of this action to this Court is proper under 28 U.S.C. §1441.

7.

The jurisdictional facts alleged in this *Notice of Removal* existed at the time the state court action was filed and exist at the time of the filing of this notice.

8.

Defendants file this *Notice of Removal* within the one year time period required by 28 U. S.C. §1446.

9.

All pleadings, process, orders and other filings in the State Court Action have been requested and will be supplemented as required by 28 U.S.C. §1446(a).

10.

Defendant will promptly file a copy of this Notice of Removal with the clerk of the state court where the state court action is pending.

11.

The Western District of Louisiana is the federal judicial district embracing the 26<sup>th</sup> Judicial District Court for the Parish of Webster, State of Louisiana, the parish in which the State Court Action has been filed and is pending. Therefore, this action is properly removed to this District Court under 28 U.S.C. §98(a) and 28 U.S.C. §1441.

***Reservation of Defenses***

12.

Defendant expressly reserves all rights, defenses, and objections that it could have raised in the State Court Action, including those that may be asserted by exception or motion, and specifically including, but not limited to, the sufficiency of citation, the sufficiency of service of process, venue, and personal jurisdiction.

**WHEREFORE**, Defendant, Brookshire Grocery Company, prays that the proceeding filed in the 26<sup>th</sup> Judicial District Court for the Parish of Webster, Division “F,” Suit No.80425, be removed to the United States District Court for the Western District of Louisiana.

Respectfully submitted:

**NODIER LAW, LLC**

BY: /s/ Kimberly L. Wood  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 19, 2023, a copy of the foregoing *Notice of Removal* was filed electronically with the Clerk of Court using the CM/ECF system. Notice of the filing will be sent to the following by operation of the court's electronic filing system.

Eloise Nolley  
*through her attorney of record*  
Patrick O. Jefferson  
504 North Main Street  
Homer, LA 71040

\_\_\_\_\_  
/s/ Kimberly L. Wood  
Kimberly L. Wood